

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1695

January 26, 2014

**SUMMARY OF BILL:** Requires anyone convicted of aggravated child neglect or endangerment to serve 90 percent of the sentence imposed. Sentence reduction credits may reduce the percentage, but not below 75 percent.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$66,600/Incarceration\***

Assumptions:

- Tennessee Code Annotated § 40-35-501 requires anyone convicted of aggravated child neglect or aggravated child endangerment to serve 75 percent of the sentence imposed. Sentence reduction credits can reduce the percentage, but in no case can one serve less than 55 percent of the sentence received.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the DOC, there has been an average of two admissions each year for aggravated child neglect of a child less than six years of age, a Class A felony, for the past three years.
- According to the DOC, the average sentence for aggravated child neglect of a child less than six years of age is 21.5 years. The average time served for a Class A felony is 15.78 years.
- The proposed legislation would require each offender to serve no less than 75 percent of his/her sentence, or 16.13 years ( $21.5 \text{ years} \times 0.75 = 16.13$ ). The proposed legislation would require each offender to serve an additional 0.35 years ( $16.13 \text{ years} - 15.78 \text{ years}$ ).
- According to the DOC, 33.75 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.75 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same offense level as under current law (2

offenders x 0.3375 = 1 offender).

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender [2 offenders – 1 offender (recidivism discount)] serving an additional 0.35 years (127.84 days) for a total of \$8,474.51 (\$66.29 x 127.84 days).
- According to the DOC, there has been an average of 0.7 admissions each year for aggravated child endangerment, a Class B felony, for the past three years. Under current law, anyone convicted of aggravated child endangerment must serve at least 55 percent of the sentence received.
- The DOC has no data on the average sentence or the average time served for aggravated child endangerment.
- The average time served for a Class B felony is 5.29 years. It is assumed the average sentence for aggravated child endangerment is 12 years, which is the maximum sentence for a Class B, Range I offender and the minimum sentence for a Class B, Range II offender.
- It is assumed that under current law, each offender is serving 6.6 years ( $12 \times 0.55 = 6.6$ ). The proposed legislation would require each offender to serve no less than 70 percent of his/her sentence, or 9 years ( $12 \text{ years} \times 0.75 = 9$ ). The result is an increase in the average time served of 2.4 years (9 years – 6.6 years).
- A recidivism discount of 33.75 percent applies, but due to the low number of aggravated child endangerment admissions added by this legislation, the recidivism discount does not impact the incarceration cost for aggravated child endangerment under the proposed legislation.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 2.4 years (876.6 days) for a total of \$58,109.81 (\$66.29 x 876.6 days).
- The total additional incarceration cost is \$66,584.32 (\$8,474.51 + \$58,109.81).
- Any increase in caseloads for the District Public Defenders Conference can be accommodated within existing resources.
- It is assumed that there will be no impact on the District Attorneys General Conference (DAGC) because of the low number of admissions each year for aggravated child neglect or endangerment. The DAGC will be able to accommodate any increase within existing resources.
- Any impact to the caseloads of state trial courts can be accommodated within existing judicial resources without an increase appropriation or reduced reversion.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm